

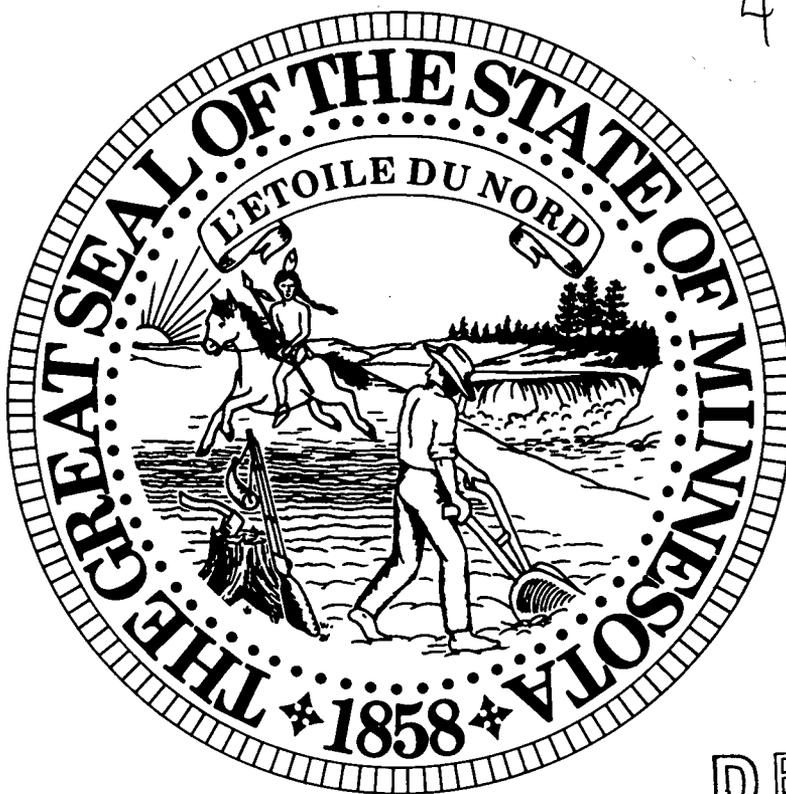
86, November 10



STATE OF MINNESOTA

# STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



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# STATE REGISTER

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, and supreme court and tax court decisions.

## Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
19	Monday 27 October	Monday 3 November	Monday 10 November
20	Monday 3 November	Monday 10 November	Monday 17 November
21	Monday 10 November	Monday 17 November	Monday 24 November
22	Monday 17 November	Friday 21 November	Monday 1 December

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55155, (612) 296-4273.

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The PROPOSED RULES section contains:

- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
• Proposed amendments to rules already in existence in the Minnesota Rules.
• Proposed emergency rules.
• Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the State Register unless requested by an agency.)
• Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
• Notice of adoption of emergency rules.
• Adopted amendments to emergency rules (changes made since the proposed version was published).
• Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
• Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before April 8, 1985 are published in the Minnesota Rules 1985. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 are included in a supplement published in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The State Register publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Table with 2 columns: Issue numbers and cumulative listings. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

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# PROPOSED RULES

Pursuant to Minn. Stat. of 1984, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Energy and Economic Development

### Proposed Permanent Rules Relating to Community Energy Council Grants

#### Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State of Minnesota, Department of Energy and Economic Development, Energy Division, intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 116J.035, subdivision 2 and 116J.381, subdivision 4, which permit the Commissioner to adopt rules pursuant to chapter 14 as necessary to carry out his duties and responsibilities pursuant to chapter 116J, and to provide professional and financial assistance to communities to establish community energy councils and develop and implement community energy programs.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mark Schoenbaum, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101. Oral statements will be received during regular business hours by telephone at (612) 297-3602 and in person at the above address.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

The rules proposed for adoption relate to the following matters: These rules amend the program governing the distribution of funds for community energy council grants (Minn. Rules, parts 4160.5100-4160.5900) in response to a three million dollar allocation from the Exxon oil overcharge case. The rules amend the application schedule and review process, increase the maximum award amount of grants, establish that a portion of funds will be reserved to fund applications submitted by cities of the first class, clarify that rental energy conservation activities are eligible activities, and amend the grant agreement contents, funding period, and disbursement schedule. A free copy of the rule is available upon request from Mark Schoenbaum, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101, telephone (612) 297-3602.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mark Schoenbaum, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101, telephone (612) 297-3602, upon request.

If no hearing is required, upon adoption of the rule, the rule and required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney

# PROPOSED RULES

General, or who wish to receive a copy of the adopted rule, must submit the written request to Mark Schoenbaum, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101.

Dated: 21 October 1986

Mark B. Dayton, Commissioner  
Department of Energy and Economic Development

## Rules as Proposed

### COMMUNITY ENERGY COUNCIL GRANTS

#### 4160.5100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 4160.5200 to 4160.5900, the following terms have the meaning given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Energy and Economic Development.

Subp. 3. **Community energy council.** "Community energy council" means a council, committee, board, or other body formed by a city or county, individually or through the exercise of joint powers agreements, to address local energy issues.

Subp. 4. **Department.** "Department" means the Department of Energy and Economic Development.

Subp. 5. **Eligible applicant.** "Eligible applicant" means a Minnesota city or county.

#### 4160.5200 PURPOSE.

Parts 4160.5100 to 4160.5900 establish the method by which the department provides funds to Minnesota cities and counties in support of community energy council activities, as authorized by Minnesota Statutes, section 116J.381.

#### 4160.5300 GRANT PROGRAM.

Subpart 1. **Application schedule.** After announcement by the department in the *State Register*, the department shall accept applications for community energy council grants from cities and counties, individually, collectively, or through the exercise of joint powers agreements. All available funds shall be announced at the beginning of each grant cycle. No applicant may apply for more than one grant per cycle. The department shall consider for funding only applications received by the deadline announced in the *State Register*.

Subp. 2. **Review process.** The commissioner shall select the members of a committee to assist ~~him or her~~ the commissioner to review and rank applications. The review committee shall score applications according to criteria in part 4160.5500 and transmit its recommendations to the commissioner. The commissioner shall approve, disapprove, or return for further consideration applications recommended by the committee. The department must complete its review and inform applicants of its decision within 45 days of the application deadline. Upon approval by the commissioner, a grant agreement may be negotiated with the department in accordance with part 4160.5800.

Subp. 3. **Maximum award amount.** The maximum amount of a community energy council grant to an individual applicant other than cities of the first class is ~~\$15,000~~ \$30,000 for the first year and \$15,000 for the second year and requires at least a ten percent local match. The maximum amount of a community energy council grant to a joint application for the first year is ~~\$15,000~~ \$30,000 for the first applicant and ~~\$12,000~~ \$24,000 for each additional applicant up to a maximum of ~~\$50,000~~ \$80,000, and requires at least a ten percent local match. The maximum amount of a community energy council grant to a joint application for the second year is \$15,000 for the first applicant and \$12,000 for each additional applicant up to a maximum of \$48,000, and requires at least a ten percent local match.

Subp. 4. **Cities of the first class.** When the department announces the availability of new grant funds in the State Register, the department shall announce that a portion of the funds is reserved to fund applications submitted by cities of the first class. The portion reserved for applications submitted by cities of the first class shall equal the percentage of available funds equal to the percent of the state population constituted by cities of the first class. The department shall calculate the percent of the population constituted by cities of the first class using the most recent population figures available from the Office of the State Demographer or the United States Bureau of the Census, whichever is most recent. If the review committee awards its application an average

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## PROPOSED RULES

score of at least 80 points according to the criteria in part 4160.5500, a city of the first class will be eligible for a grant amount equal to the percent of available funds that equals the city's percentage of the state population.

### 4160.5400 APPLICATION FOR COMMUNITY ENERGY COUNCIL GRANT.

Subpart 1. **Form.** Applications must be submitted in a form prescribed by the department.

Subp. 2. **Contents.** Applications must contain the following information:

A. Documentation of the existence of a community energy council must include a copy of the resolution of the governing body establishing a community energy council, and a list of members appointed by the governing body to serve on the community energy council, including the members' relevant affiliations, if any.

B. Applicants shall include a work plan that explains how the applicant intends to undertake program planning and implementation during the grant period. Applicants shall specify major tasks to be undertaken and a project schedule that includes beginning and ending dates for each task. The expected results or product of each task must be identified.

C. The budget must identify major expenditure categories and amounts and the amount and source of the local match.

D. Applicants shall submit a copy of the resolution or resolutions that authorize the submission of the application to the department.

### 4160.5500 EVALUATION OF GRANT APPLICATION.

Subpart 1. **Criteria.** The review committee shall evaluate grant applications according to the following criteria:

A. Community energy councils must include representatives of labor, small business, volunteer organizations, senior citizens, and low and moderate income residents, and may include city and county officials, and other interested parties.

B. A work plan will be evaluated to determine its potential to reduce energy use and energy costs in the applicant community. Positive indicators of this potential are:

(1) a work plan that implements one or more eligible activities as listed in part 4160.5600, subpart 1, during the grant period;

(2) a work plan that demonstrates how the applicant will coordinate activities undertaken with community energy council grant funds with activities of other energy service providers, including cities and counties; or

(3) a work plan that indicates efforts that are underway or planned to secure funds in addition to a community energy council grant for project implementation.

C. Past or current experience in conducting energy-related community programs will be considered by the review committee as an indicator of the applicant's capability in this area and commitment to energy programs.

D. A grant application must be clear, concise, and complete.

Subp. 2. **Point values for applications.** The review committee shall award points to each application as follows:

A. representation of community energy council membership, up to a maximum of 35 points;

B. adequacy of applicant work plan, up to a maximum of 40 points;

C. energy-related program experience, up to a maximum of 15 points; and

D. clarity, conciseness, and completeness, up to a maximum of ten points.

### 4160.5600 CLASSIFICATION OF ELIGIBLE AND INELIGIBLE GRANTEE ACTIVITIES.

Subpart 1. **Eligible activities.** Planning, promotion, coordination, and implementation of the following activities are eligible for community energy council grants:

A. Residential energy conservation activities may include energy audits, workshops, distribution of energy conservation materials and information, and financing programs.

B. Rental energy conservation activities include energy audits, workshops, distribution of energy conservation materials and information, enforcement of rental energy efficiency standards, and financing programs. Tenants and rental property owners are eligible beneficiaries of rental energy conservation activities.

C. Business energy conservation activities may include meetings and workshops, energy audits, distribution of energy conservation materials and information, and financing programs.

~~C.~~ D. Transportation energy conservation activities may include car-care clinics, promotion of energy efficient transportation modes, and traffic flow synchronization.

~~D.~~ E. Community energy planning activities may include development of community energy use and cost profiles and estimates of energy conservation and alternative energy potentials.

~~E.~~ F. Local government energy conservation activities may include energy use and cost accounting, fleet management, procurement of energy efficient vehicles and equipment, and recycling.

~~F.~~ G. Energy efficient land use planning activities may include developing and amending comprehensive plans and zoning ordinances, subdivision regulations, and other land use controls to facilitate energy efficient development and the use of renewable energy resources.

~~G.~~ H. Alternative energy activities may include projects the objective of which is the substitution of alternative energy sources for fossil fuels.

Subp. 2. **Ineligible activities.** The following activities are ineligible for community energy council grants:

- A. projects conducted outside a grantee's corporate boundaries by the grantee alone; and
- B. real property acquisition.

#### **4160.5700 CLASSIFICATION OF ELIGIBLE AND INELIGIBLE GRANTEE EXPENDITURES.**

Subpart 1. **Eligible grantee expenditures.** The following are eligible grantee expenditures:

- A. salaries and wages;
- B. fringe benefits;
- C. in-state travel;
- D. space rental and utilities;
- E. rental and lease of equipment;
- F. consumable supplies;
- G. telephone;
- H. postage;
- I. printing and printed materials; and
- J. insurance.

Subp. 2. **Ineligible grantee expenditures.** The following are ineligible grantee expenditures:

- A. out-of-state travel, unless specifically approved in an agreement between the grantee and the department;
- B. purchase of real property;
- C. purchase of equipment, except consumable supplies; and
- D. retroactive payment of grant funds for activities undertaken prior to the effective date of the grant agreement.

#### **4160.5800 GRANT AGREEMENT.**

Subpart 1. **Contents.** An agreement must specify the grant amount and the duration of the grant. The agreement must include assurance that the local share will be provided ~~and~~, that the work program agreed upon will be carried out and that the grantee will use all interest earned on grant funds for eligible purposes consistent with the grant agreement. A grant agreement based upon a joint application must be executed by the applicant city or county that will be directly responsible for financial management of the grant, and that will be responsible for the required reports in part 4160.5800, subpart 4, and the records required in part 4160.5800, subpart 5. Amendments and extensions may only be made in writing and must be signed by all parties.

Subp. 2. **Funding period.** Grants will be approved for a period of up to one year, unless other terms are agreed to by the commissioner. Grants will be approved for a second year if the first year work plan has been completed or if the grantee has made substantial progress towards completion of the first year work plan, as determined by the commissioner.

Subp. 3. **Disbursement schedule.** Funds will be disbursed according to the procedures contained in items A and B:

- A. For grants equal to or less than \$40,000, the department shall disburse 80 percent of the grant money when it receives

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## PROPOSED RULES

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an invoice of projected costs. The department shall disburse the remaining 20 percent when the grantee work program is complete and the department receives a satisfactory final report.

B. For grants greater than \$40,000, the department shall disburse ten percent of the grant amount when it receives an invoice requesting disbursement. Following the initial disbursement, the department shall reimburse grantees quarterly for actual expenses incurred during the preceding three months when the grantee submits an invoice and a financial statement documenting these expenses, until 90 percent of the grant amount has been disbursed. The department shall disburse the remaining ten percent when the grantee work program is complete and the department receives a satisfactory final report.

Subp. 4. **Required reports.** The grantee shall submit to the department on the first of each month a one to two page report briefly stating the activities that have taken place during the month. The grantee shall provide the department with three copies of a final report and financial statement, describing all activities that took place during the grant period. The final report must summarize planning and implementation steps in chronological order and identify all parties involved during the grant period.

Subp. 5. **Records.** The grantee shall maintain financial records according to generally recognized accounting methods for a period of not less than three years from the date of the execution of the contract of all transactions related to the receipt and expenditure of grant money.

Subp. 6. **Grant agreement deviations.** Unless the grantee demonstrates to the department that the grantee's circumstances have changed since execution of the grant agreement to such an extent that a deviation is necessary to complete the agreed upon work program, no grant funds may be used to finance activities by consultants or local staff if the activities are not included in the grant agreement. A grantee may not contract out all its energy-related activities to consultants unless the grantee demonstrates to the department that such contracting is necessary to complete the work program.

### **4160.5900 GRANT CLOSE-OUT.**

Subpart 1. **Evaluation.** The department shall conduct an evaluation of the final report and all the required reports and financial documents within 60 days of their submission by the grantee to the department. The evaluation shall assess:

A. whether the local share contributed was equal to or greater than ten percent of the total cost of the agreed upon work program;

B. whether the agreed upon work program was completed; and

C. whether the governing body has formally reviewed the completed final report.

Subp. 2. **Review.** Upon completion of a satisfactory evaluation by the department, the department shall disburse the remaining 20 percent of the grant amount owed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a review by the commissioner.

## **Water Resources Board**

### **Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act**

#### **Notice of Intent to Adopt a Rule without a Public Hearing**

Notice is hereby given that the State Water Resources Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 1985 Supplement, section 110B.10, Subd. 2.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comments are encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule within the 30-day comment period. If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule being addressed, the reason for the request, and any change proposed. If a public hearing is required, the Water Resources Board will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Karen Schultz  
Water Resources Board  
500 Lafayette Road, Box 34  
St. Paul, Mn. 55101  
Telephone: 612-296-2840

The proposed rule may be modified if the modifications are supported by data and views submitted to the Water Resources Board and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Karen Schultz upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Karen Schultz.

Dated: 24 September 1986

Mel Sinn, Executive Director  
Water Resources Board

### **Rules as Proposed (all new material)**

#### **9300.0010 DEFINITIONS.**

Subpart 1. **Applicability.** The definitions in this part and in Minnesota Statutes, section 110B.02 apply to parts 9300.0020 to 9300.0210.

Subp. 2. **Geographic indicator.** "Geographic indicator" means latitude and longitude; or township, range, section, and 40-acre parcel.

Subp. 3. **Local units of government.** "Local units of government" means municipalities, towns, counties, soil and water conservation districts, watershed districts, organizations formed for the joint exercise of powers under Minnesota Statutes, section 471.59, and other special purpose districts or authorities exercising authority in water and related land resources management at the local level.

Subp. 4. **Minor watershed unit.** "Minor watershed unit" means each of the approximately 5,600 minor watershed units delineated on the state watershed boundaries map prepared pursuant to the requirements of Laws of Minnesota 1977, chapter 455, section 33, subdivision 7, paragraph (a) and the accompanying data base, and the revisions of that data base.

Subp. 5. **Protected waters.** "Protected waters" means those waters of the state identified as public waters or wetlands under Minnesota Statutes, section 105.37, subdivision 14 or 15, or section 105.391, subdivision 1.

Subp. 6. **State board.** "State board" means the Minnesota Water Resources Board created by Minnesota Statutes, section 105.71, subdivision 1.

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Subp. 7. **Watershed management organization.** "Watershed management organization" has the meaning given in Minnesota Statutes, section 473.876, subdivision 9.

Subp. 8. **Watershed units.** "Watershed units" has the meaning given in Minnesota Statutes, section 110B.02, subdivision 10.

## PURPOSE AND PROCEDURE OF PLANNING

### 9300.0020 PURPOSES OF PLANNING PROCESS AND SCOPE OF PLAN.

Subpart 1. **Purposes.** The purposes of a comprehensive water plan are to:

A. identify existing and potential problems and opportunities for the protection, management, and development of water and related land resources; and

B. develop objectives and carry out a plan of action to promote sound hydrologic management of water and related land resources, effective environmental protection, and efficient management.

Subp. 2. **Scope.** In order to gain sufficient understanding of existing natural features and other phenomenon that serve as the basis for a comprehensive water plan, the county must assemble available information about the physical environment and the surface water, ground water, and related land resources. Information is relevant for inclusion in the plan if it provides the basis for understanding a county's present or future water-related conditions, and if it contributes to the understanding of water-related opportunities or problems that are or will be faced by a county.

After collecting the required information, the county must determine the implications of the information for present and future land and water use, assess those implications, and identify opportunities and problems based on this assessment. The county must then develop its goals, objectives, and plan of action for addressing identified problems and opportunities.

### 9300.0030 PROCEDURES FOR WATER PLANNING.

Subpart 1. **Applicability.** A county board that decides to develop a comprehensive water plan under Minnesota Statutes, chapter 110B shall use the procedures provided in this part to facilitate public participation and intergovernmental coordination.

Subp. 2. **Resolution to develop plan.** A county board deciding to develop a comprehensive water plan must adopt a resolution requiring the development of a plan.

Subp. 3. **Notice of decision to develop plan.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall send notice of its decision to develop a plan to:

A. the county boards of contiguous counties;

B. the governing bodies of counties, watershed districts, and watershed management organizations that have jurisdiction in each watershed unit wholly or partly within the county;

C. the governing bodies of all local units of government wholly or partly within the county;

D. the regional development commission, if any; and

E. the state board.

Upon receipt of the resolution, the state board shall notify each of the state agencies identified in part 9300.0170, subpart 2 and any other agency the state board deems appropriate.

Subp. 4. **Request for local plans and official controls.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall request from all local units of government having jurisdiction within the county the following information:

A. any existing water and related land resources plans and official controls; and

B. any conflicts, problems, or opportunities that those local units want examined and addressed in the comprehensive water plan.

The information must be submitted within 60 days of the county board's request.

Subp. 5. **Public informational meeting required.** Within 90 days of the notice required in subpart 3, the county board shall hold a public informational meeting. At the meeting, the county board should solicit information about issues, problems, and opportunities to be considered in the plan. The county shall publish notice of the meeting in the official newspaper of the county at least ten days but not more than 30 days before the meeting. The county also shall notify the groups identified in subpart 3 at least 30 days before the meeting.

Subp. 6. **Meetings with local units of government within the county.** The county board adopting the resolution shall conduct meetings with local units of government exercising authority in water and related land resources management within the county during the plan preparation and implementation.

Subp. 7. **Public participation process.** The county board developing a comprehensive water plan shall ensure that there is a process for public participation during plan development and implementation.

Subp. 8. **Record of meetings.** A county must maintain a record of each meeting held under subparts 5, 6, and 7. The record shall include minutes and a list of the people in attendance and who they represented.

Subp. 9. **Delegation.** The county board is responsible for the comprehensive water plan, but may delegate all or part of the preparation of the comprehensive water plan to a local unit of government, regional development commission, or a resource conservation and development committee that is willing to carry out this assignment. If a county delegates all or part of the comprehensive water plan preparation, it must ensure that public meetings are recorded and that there is a process for public participation in the preparation of the plan.

#### CONTENTS OF A COMPREHENSIVE WATER PLAN

##### 9300.0040 DATA CONSISTENCY WITH STATE PLANNING AGENCY GUIDELINES.

Data collected after the effective date of parts 9300.0010 to 9300.0210 for a comprehensive water plan must follow the guidelines for consistency established by the Minnesota State Planning Agency. To assure consistency, this data must include a geographic indicator.

Data must also be coded using recommended standard identifiers, where available. Standard identifiers are: the Minnesota unique well number for wells and the protected waters inventory identification number for surface waters.

Consistency of map scales is also recommended, where possible. The information required to be presented in map form by parts 9300.0050 and 9300.0070 may be combined on multiple maps or map overlays.

##### 9300.0050 PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

Summarizing information about the physical environment enables a county to understand the present conditions affecting water and related land resources. At a minimum, the following information about the county's physical environment, land use, and development must be included in the comprehensive water plan:

A. Precipitation:

- (1) a map or list of the location of precipitation gaging stations in the county;
- (2) a map showing isolines of normal annual total precipitation in inches; and
- (3) a map showing isolines of normal total precipitation in inches for the period May through September.

B. Geology and water resources:

- (1) a map or description of important aquifer systems, confining layers, and flow characteristics to the extent known;
- (2) a description of ground and surface water interconnections, such as recharge and discharge areas, where they are known;
- (3) a map of boundaries and flow directions of watershed units and minor watershed units; and
- (4) a map of state protected waters and public drainage ditches, including the location of any existing dams and control structures.

C. Soils:

- (1) a general soils maps and description of soils infiltration characteristics; and
- (2) a map of erosion-prone soils.

D. Map of original vegetation.

E. Description of general topographic relief of watershed units based on United States Geological Survey topographic maps.

F. Land use and public utility services:

- (1) a general map of existing land uses;
- (2) a map showing the areas served by storm sewers, sanitary sewers, and public water systems; and

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(3) a map or list by geographic indicator showing the location of community public water supply intakes and wells.

G. Land ownership:

(1) a map showing the ownership of local, state, federal, and Indian tribal lands; and

(2) a map showing lands with easements that relate to water resources, where that information is available.

### 9300.0060 EXPECTED CHANGES TO PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

A comprehensive water plan must identify expected changes in the physical environment, land use, and development described in part 9300.0050. Information that may be used to predict changes include population projections, comprehensive plans, official controls, state and federal regulations, and plans for road, water, and sewer extensions. Expected changes that must be included in the plan are expected changes to land use and cover; expected changes in public utility services; and other expected changes potentially affecting water resources.

### 9300.0070 SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Applicability.** Summarizing information about the surface water, ground water, and related land resources, enables a county to characterize its water and related land resources, and to identify problems and opportunities. The level of detail should be determined in conjunction with neighboring counties, based on the information available, the extent and use of the resource, and the degree to which problems and opportunities are identified. The information should be listed by watershed unit and ground water systems where appropriate. At a minimum, information about existing county resources must include the information required by subparts 2 to 5, when that information is available.

Subp. 2. **Water quantity information.** The following information about water quantity must be included in the plan:

A. Surface water:

(1) a description of high, mean, and low flows on streams;

(2) a list of lakes where the state has established ordinary high water marks;

(3) a list of permitted withdrawals from lakes and streams, including the location by geographic indicator, source, use, and amounts withdrawn;

(4) a list of lakes and streams in the county for which state protected levels or flows have been established;

(5) a description of known water use conflicts, including those caused by ground water pumping that affects surface water; and

(6) the implications of surface water quantity information for present and future water and land uses and an assessment of those implications.

B. Ground water:

(1) a list of wells covered by state appropriation permits, including the location by geographic indicator, amounts of water appropriated, type of use, and aquifer source;

(2) a description of known well interference problems and water use conflicts;

(3) a list of state observation wells located in the county including geographic indicator, unique well number, aquifers measured, years of record, and average monthly levels; and

(4) the implications of ground water quantity information for present and future water and land uses and an assessment of those implications.

Subp. 3. **Water quality information.** The following information about water quality must be included in the plan:

A. Surface water:

(1) a map or list of the state water quality management classifications for each stream and lake;

(2) a summary of available lake and stream water quality monitoring data; examples of these kinds of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, phosphorus, nitrogen, and metals);

(c) organic chemicals (for example, petroleum constituents, pesticides, and organic solvents);

(d) sedimentation (for example, suspended solids);

(e) dissolved oxygen; and

(f) excessive growth or deficiency of aquatic plants;

(3) a summary of information from informal sources relating to surface water quality, such as fish kills; and

(4) the implications of surface water quality information for present and future water and land use, and an assessment of those implications.

**B. Ground water:**

(1) A summary of available water quality data, including routinely monitored sites. Examples of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, nitrate/nitrite and metals concentrations); and

(c) organic chemicals (for example, organic solvents, petroleum constituents, and pesticides).

(2) The implications of ground water quality information for present and future water and land uses with emphasis on those with potential health-related impacts and an assessment of those implications.

Where possible, the information required in this item should be presented by aquifer system and geographic area.

**Subp. 4. Information on special land uses and conditions that influence quality and quantity.** The following information about special land uses and conditions must be included in the plan:

**A. Eroding lands:**

(1) a description or map by watershed unit of areas where eroding lands are causing sedimentation problems;

(2) water quality and quantity implications for watercourses, water basins, ditches, and wetlands of sedimentation and an assessment of those implications; and

(3) an assessment by watershed unit of the effects of land use and cover on quantity and quality of runoff.

**B. Irrigation:**

(1) a map or list by geographic indicator of irrigated acreage; and

(2) for any county containing more than 1,000 acres of irrigated land in any one township, the implications of irrigation for present and future land and water use and an assessment of those implications.

**C. Drainage:**

(1) a table listing the public drainage systems in the county and the amounts expended, by year, for repair work on each system;

(2) an assessment of any significant water quality and quantity effects due to public or private ditch systems; and

(3) a summary of any known water quality and quantity information from engineering reports and modeling efforts on ditches in the county.

**D. Pollutant sources:**

(1) a map or list by geographic indicator of known closed and open sanitary landfills, closed and operating open dumps, and Minnesota Superfund hazardous waste sites and a summary of available water quality information relating to these sites;

(2) a map or list by geographic indicator of feedlots, abandoned wells not sealed in accordance with state statutes and rules, underground storage tank sites, and permitted wastewater discharges under chapter 7001, and a summary of available water quality information relating to these sites;

(3) a list by geographic indicator of facilities that have hazardous waste generator identification numbers; and

(4) the implications of pollutant sources for present and future water and land uses and an assessment of those implications.

**E. Special geologic conditions:**

(1) a map of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality or quantity; and

(2) the implications of special conditions for present and future water and land uses and an assessment of those implications.

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Subp. 5. **Information on related land resources.** The following information about related land resources shall be included in the plan:

A. Wetlands:

- (1) maps of wetlands identified under the National Wetlands Inventory, where available;
- (2) a summary of plans for wetlands with controlled outlets, such as plans for draw downs;
- (3) a description of the United States Corps of Engineers, Section 404 permit requirements affecting county waters; and
- (4) the implications of wetlands for present and future water uses with special consideration for water quality, flood attenuation, wildlife, and recreation, and an assessment of those implications.

B. Floodplains:

- (1) a map showing those areas delineated as floodplain by existing local ordinances or in proposed ordinances that have a due date established by the Minnesota Department of Natural Resources or the Federal Emergency Management Agency;
- (2) a map of areas with known flooding problems;
- (3) an estimate of average annual flood damages, if available; and
- (4) an assessment of the adequacy and enforcement of existing floodplain ordinances.

C. Shorelands:

- (1) a list of local units of government with approved shoreland ordinances;
- (2) a list of protected waters, and their shoreland classifications under Minnesota Statutes, section 105.485; and
- (3) an assessment of the adequacy and enforcement of the shoreland ordinances.

D. Water-based recreation lands:

- (1) a map and description of water oriented recreational resources listed in the State Comprehensive Outdoor Recreation Plan;
- (2) a map of public water accesses;
- (3) a map and description of state or federally designated wild and scenic rivers and state designated canoe and boating routes; and
- (4) an assessment of the adequacy of water-based recreational lands for present and future use.

E. Fish and wildlife habitat:

- (1) a map and description of any state designated wildlife management areas and any lakes with state designated classifications for game or fish management within the county;
- (2) a map and description of any state designated trout lakes or trout streams within the county;
- (3) a list and description of the state ecological and management classifications and use attainability for lakes and streams, where available;
- (4) a list and description of the conclusions and recommendations of biological surveys or reconnaissance studies, where available;
- (5) a description of state management plans for fish and wildlife areas, where available; and
- (6) an assessment of the adequacy of fish and wildlife habitat for present and future use.

F. Unique features and scenic areas:

- (1) a map or description of unique features and scenic areas with relationships to water including state designated natural and scientific areas, areas containing county, state, and federal rare and endangered species, and other features such as waterfalls, springs, and historic mills; and
- (2) the implications of unique features and scenic areas for present and future water and land use, and an assessment of those implications.

### 9300.0080 EXPECTED CHANGES TO SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Changes to be included.** Changes may be anticipated in distribution, availability, quality, and use of water resources in a county. To assess the probability and effect of potential changes to its water resources, a county must list, consider, and describe the impacts on those resources from the following areas of potential change:

- A. changes to the physical environment, land use, and development identified under part 9300.0060;
- B. special land and water uses or conditions, and trends within or without the county that might affect a county's water and related land resources; and
- C. the influence of existing programs on water and related land resources and the administrative, technical, and financial capability of the county to develop and implement new programs.

Subp. 2. **Method of listing.** Expected changes should be listed by watershed unit and ground water system, where appropriate, for water quantity, water quality, special land uses and conditions, and related land resources categories.

#### **9300.0090 PROBLEMS AND OPPORTUNITIES.**

Subpart 1. **Purpose.** Identification of problems and opportunities is needed to guide the county in developing its objectives and plan of action.

Subp. 2. **Description of problems and opportunities.** For each watershed unit and ground water system, where appropriate, the comprehensive water plan must identify key issues relating to water quality, quantity, special land uses and conditions, and related land resources. The plan must discuss assets or opportunities, as well as problems associated with each issue.

Subp. 3. **Determining issues, problems, and opportunities.** A county must determine water related issues, problems, and opportunities in its comprehensive water plan. At a minimum, a county must gather information about water related problems and opportunities in the following manner:

- A. investigate those problems and opportunities disclosed at public meetings and in written comments;
- B. investigate those problems and opportunities that affected local units of government want examined;
- C. assess information gathered under parts 9300.0050 to 9300.0080; and
- D. assess the status and adequacy of official controls, plans, and other local, state, or federal programs concerning water and related land uses.

#### **9300.0100 ESTABLISHMENT OF COUNTY GOALS.**

The comprehensive water plan must state goals for present and future water and land uses to set the framework for determining plan objectives and related actions.

#### **9300.0110 OBJECTIVES AND PLAN OF ACTION.**

The objectives and plan of action should be tailored to address the problems and opportunities previously identified in the comprehensive water plan. A comprehensive water plan must state measurable objectives and a plan of action for each watershed unit and ground water system, where appropriate, for each of the following categories:

- A. opportunities and problems in surface and ground water quality and quantity identified pursuant to part 9300.0090;
- B. significant special land uses and conditions that influence water quantity and quality based on opportunities and problems identified pursuant to part 9300.0090; and
- C. related land resources opportunities and problems identified pursuant to part 9300.0090.

#### **9300.0120 PRIORITY ACTION CATEGORIES.**

Subpart 1. **Priorities required.** A county must establish priorities in the plan of action relating to water quality, water quantity, special land uses or conditions that influence water quality and quantity, and related land resources.

Subp. 2. **Priority development.** A comprehensive water plan must state priorities of action that reflect the urgency of the problem or opportunity identified.

Subp. 3. **Priority description.** In describing the priorities, the comprehensive water plan must describe those actions that will be taken by the county alone, and those actions that will require the cooperation of other local units of government or state and federal agencies, and must state whether the county board has received commitments for that cooperation.

#### **9300.0130 DESCRIPTION OF RECOMMENDED CHANGES IN STATE PROGRAMS.**

If changes in state programs, policies, and requirements that a county considers important to water management in the county are recommended in the comprehensive water plan, the description of those changes must include:

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- A. identification of the specific program, policy, or requirement for which change is recommended by the county;
- B. a statement of the specific changes recommended by the county; and
- C. the reasons the county considers the changes important.

### **9300.0140 LOCAL REVIEW AND POTENTIAL CONFLICTS.**

Subpart 1. **Applicability.** The procedures in this part apply to local review and to the identification and resolution of existing and potential conflicts between a comprehensive water plan and the plans or local controls of: (1) local units of government within the county preparing the water plan; (2) contiguous counties; and (3) water management organizations, watershed districts, and joint powers boards sharing jurisdiction over watershed units and ground water systems affected by the comprehensive water plan.

Subp. 2. **Identification of conflicts.** Conflicts or potential conflicts that occur between the comprehensive water plan and the existing or proposed plans of local units of government must be identified either during the planning process or during review of the comprehensive water plan by other local units of government.

Subp. 3. **During plan preparation.** Local units of government must notify the county board intending to develop a comprehensive water plan of any conflicts that those local units want examined and addressed in the comprehensive water plan in accordance with part 9300.0030, subpart 4.

#### **Subp. 4. During plan review.**

A. Before it is submitted to the state board for review, the comprehensive water plan must be submitted for review and comment to:

- (1) all local units of government wholly or partly within the county preparing the plan;
- (2) all applicable regional development commissions;
- (3) all contiguous counties and water management organizations; and
- (4) other counties, watershed districts, intercounty joint powers boards, and watershed management organizations within the same watershed unit or ground water system as the county preparing the plan that may be affected by the plan.

B. In their comments on the plan, other local units of government must identify and describe any conflicts they have with the plan not already identified in the plan. The local unit must state its position on any relevant conflict identified by the county for consideration by the state board during the board's review of the plan.

C. Comments shall be submitted as required by Minnesota Statutes, section 110B.08, subdivision 3.

Subp. 5. **Description of conflicts.** The description of a conflict in the comprehensive water plan or in the comments of local units of government must include:

- A. the units of local government or state agencies involved in the conflict;
- B. the comprehensive water plan provisions or omissions causing the conflict;
- C. any local plan or control that conflicts with the comprehensive water plan and that would require change;
- D. the objections of the local unit of government to the comprehensive water plan; and
- E. suggested measures to resolve the conflict other than making the change indicated.

Subp. 6. **Process to resolve conflicts.** The comprehensive water plan must state whether there is a process underway to resolve identified conflicts. If there have been unsuccessful attempts to resolve conflicts, those attempts must be described.

### **9300.0150 INCORPORATION OF PLANS AND RULES OF WATERSHED DISTRICTS AND INTERCOUNTY JOINT POWERS BOARDS.**

Subpart 1. **Incorporation required.** A county must incorporate plans and rules of watershed districts or intercounty joint powers boards with jurisdiction within the county into its comprehensive water plan and may change the plans and rules it incorporates if the requirements of this part are met.

Subp. 2. **Changes to plans and rules.** To change the plans or rules of a watershed district or intercounty joint powers board that a county incorporates into its comprehensive water plan, a county must demonstrate in its plan that changes to the district or intercounty plans or rules are necessary, and that these changes are supported by each county that selects members on the respective boards.

If all affected counties do agree on watershed district or intercounty joint powers board plan or rule revisions, resolutions of support for recommended changes must be attached to the plan.

Subp. 3. **Criteria for changing plans and rules.** To make changes in a watershed district or intercounty joint powers board

plan or rule that a county incorporates into its comprehensive water plan, the county must demonstrate that the plan or rule does not adhere to the principles in part 9300.0170, subpart 4.

### **9300.0160 IMPLEMENTATION PROGRAM.**

Subpart 1. **Program and schedule required.** The comprehensive water plan must state how and when the plan will be implemented to meet the objectives and carry out the actions described in part 9300.0110. Components and schedules that are described previously do not have to be repeated.

Subp. 2. **Program.** An implementation program may include data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, adoption of new official controls, and other actions. If the county considers no actions are necessary to address identified problems or opportunities it must explain why actions are not needed. Staff and financial resources available or needed to carry out the comprehensive water plan must be stated.

Subp. 3. **Schedule.** The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

Subp. 4. **Agreements with local units.** If a county board has made any agreement for the implementation of a comprehensive water plan or portions of a plan by a local unit of government within the county, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

Subp. 5. **Capitol improvement program.** If capital improvement projects are proposed to implement the comprehensive water plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

- A. the physical components of the project, including their approximate size, configuration, and location;
- B. the purposes of the project and their relationship to the objectives in the comprehensive water plan;
- C. the proposed schedule for project construction;
- D. the expected federal, state, and local costs;
- E. the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and
- F. the sources of local financing proposed for the project, such as subcounty, countywide, or multicounty.

### **REVIEW OF COMPREHENSIVE WATER PLANS BY STATE AGENCIES AND THE STATE BOARD**

#### **9300.0170 STATE REVIEW.**

Subpart 1. **Submission to state board.** After conducting the public hearing required by Minnesota Statutes, section 110B.08, subdivision 4, the county board must submit to the state board ten copies of its comprehensive water plan, all written comments received on the plan, a transcript or tape recording of the public hearing held on the plan, and a summary of changes made to the plan as a result of the local review process.

In order to determine whether a comprehensive water plan is consistent with state law, the state board shall make the determinations in the manner provided by subparts 2, 3, and 4.

Subp. 2. **State board consultation with agencies.** Upon receipt of a comprehensive water plan and supporting documents, the state board shall transmit a copy of the plan to the departments of agriculture, health, and natural resources; the pollution control agency; the state planning agency; the environmental quality board; and any other state agency the state board believes could assist it in determining whether the plan is consistent with state law. An agency receiving a copy of the plan shall determine whether any portion of the plan is contrary to state law. Within 45 days of receipt of a comprehensive water plan from the state board, a state agency must submit a letter to the board identifying the portions of the plan that the agency has determined to be inconsistent with state law.

Subp. 3. **State board determination of consistency with other plans.** In determining whether a comprehensive water plan is consistent with state law, the state board shall determine whether the plan is consistent with the plan of another county or counties wholly or partially within affected watershed units or ground water systems, as required by Minnesota Statutes, section 110B.04,

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## PROPOSED RULES

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subdivision 4, clause (4), that has already been approved by the board or that has already been submitted under subpart 1. To determine consistency, the board shall consider the compatibility of the plans' goals, objectives and related actions, and implementation programs. If the board determines that the unapproved or subsequently submitted plan would not impede achievement of the goals, objectives, related actions, and implementation programs of the approved or previously submitted plan or plans, the board shall find the plan consistent with the plan or plans.

**Subp. 4. Principles for review.** To determine whether a comprehensive water plan conforms to the requirements of Minnesota Statutes, section 110B.04, subdivision 4, clause (3), the state board shall determine whether the plan conforms to the following principles:

**A. Sound hydrologic management of water:**

- (1) significant upstream and downstream effects on surface water, and up-gradient and down-gradient effects on ground water, of actions impacting water and related land resources should be fully considered;
- (2) natural water storage and retention systems should be preserved and used to the maximum extent practical;
- (3) water management decisions should be based on sound data and technical analysis;
- (4) interrelationships between surface and ground water, land and water use, and quality and quantity of water should be recognized; and
- (5) potential variations in precipitation, both short-term and long-term, should be fully considered.

**B. Effective environmental protection:**

- (1) potential cumulative effects of proposed actions should be considered;
- (2) prevention of potential water and related land resources problems should be emphasized;
- (3) the overall quality of the environment should be protected or enhanced; and
- (4) public health and safety should be protected or enhanced.

**C. Efficient management:**

- (1) the total benefits of water programs and projects should exceed the total costs;
- (2) water management programs should be adequately funded to achieve high-priority objectives;
- (3) comprehensive water planning should be coordinated with other related planning programs to fill management gaps and minimize duplication of effort;
- (4) comprehensive approaches to identified problems and opportunities should be considered; and
- (5) water conservation practices should be used to the maximum extent practical.

**Subp. 5. State board decision.** Within 90 days after the filing of a comprehensive water plan and supporting documents with the state board, the board shall approve or disapprove a comprehensive water plan and provide the county board notice of the approval or disapproval of the plan. The state board shall approve a plan only if it determines that the plan is consistent with state law. If a plan is disapproved, the state board shall as part of its notice of disapproval provide the county board with a written statement of its reasons for disapproval.

**Subp. 6. Resubmittal.** A disapproved comprehensive water plan must be revised by the county board and resubmitted to the state board within 120 days after receiving notice of disapproval, unless the state board extends the period for good cause at the county's request. The state board must identify those portions of a disapproved plan that require revision. Upon receipt of revised portions of the plan, the state board shall follow the same review process as for an originally submitted plan.

### IMPLEMENTING AN APPROVED COMPREHENSIVE WATER PLAN

#### 9300.0180 AMENDMENT OF LOCAL PLANS AND OFFICIAL CONTROLS.

**Subpart 1. Notification after plan adoption.** After a county board has adopted an approved comprehensive water plan or amendments to the plan, the county board that adopted the plan shall notify local units of government within the county of the adoption of the plan or amendments. Within 90 days of the notification, local units must submit existing water and related land resources plans and official controls to the county board for review.

**Subp. 2. County review.** Within 180 days, the county board shall review the plans and official controls submitted and identify any inconsistencies between the local plans and official controls and the comprehensive water plan. In conducting the review, the county board shall determine the need for local units of government to revise plans, adopt new controls or revise existing controls, and specify the necessary measures to bring the local plans and official controls into conformance with the comprehensive water plan.

Subp. 3. **Local appeal.** If a local unit of government disagrees with any changes to its plans or official controls recommended by the county board, the local unit has 60 days after receiving the county's recommendations to appeal the recommendations to the state board.

Subp. 4. **Revision to local plans and official controls.** After receiving the recommendations of the county board, or after resolution of an appeal, a local unit of government has 180 days to initiate revisions to its plans and official controls. New or revised plans and official controls must be submitted to the county board for review and recommendations in the manner provided by this part for submission of existing plans and official controls.

#### **9300.0190 AMENDMENT OF A COMPREHENSIVE WATER PLAN.**

Subpart 1. **Amendment required.** A comprehensive water plan must apply to every year through the year 1995 or any later year that is evenly divisible by five.

Subp. 2. **Description required.** The comprehensive water plan must describe the procedure the county will use for amendment of the plan.

Subp. 3. **Procedure and criteria.** Amendments to a comprehensive water plan shall be reviewed in the same manner, and are subject to the same criteria for approval, as an initial comprehensive water plan.

### **RESOLUTION OF DISPUTES**

#### **9300.0200 INFORMAL RESOLUTION OF DISPUTES.**

Subpart 1. **Applicability.** A county preparing or that has prepared a comprehensive water plan or another local unit of government may use the procedures provided in this part to:

- A. determine the meaning of any provision of Minnesota Statutes chapter 110B, or parts 9300.0010 to 9300.0210;
- B. resolve any conflict between two comprehensive water plans;
- C. resolve any conflict between a comprehensive water plan and any local plans or official controls; or
- D. settle any other dispute relating to a comprehensive water plan.

Use of the procedure provided in this part is without prejudice to any party's use of the procedure provided for in Minnesota Statutes, section 110B.25, subdivision 2, and part 9300.0210.

Subp. 2. **Request for meeting; response.** A local unit of government desiring a meeting with the state board chair shall submit a written request to the chair identifying the issue involved, the local unit or units of government involved, and the pertinent provisions of the comprehensive water plan, statute, or rule involved in the dispute. The chair shall in writing acknowledge receipt of the request and, if the request complies with the requirements of this part, notify the other involved local units of government and request a written response from them. If the request for a meeting does not satisfy the requirements of this part or, if there is no response from other interested local units of government, the chair shall make a reasonable effort to obtain the required information in another manner.

Subp. 3. **Response and meeting.** When the chair obtains the response of other involved local units of government or has made reasonable efforts to obtain it, the chair may attempt to resolve the issue informally or shall set a meeting between the chair and the involved local units of government and adequately inform those units in writing of the issues, time, date, and place of the meeting. At the meeting, a local unit of government may be represented by any person or persons of its choosing, subject to control by the chair, and the chair may consider any relevant evidence or argument by a local unit of government that any reasonable person would rely upon to resolve the issues in question. The decision of the chair may be announced at the hearing or be made later but in either case shall be reduced to writing and a copy sent to all interested local units of government. The decision of the chair is effective 60 days following the decision of the chair unless a petition is filed within that time pursuant to Minnesota Statutes, section 110B.25, subdivision 3, for a contested case hearing under that section.

#### **9300.0210 FORMAL RESOLUTION OF DISPUTES.**

Subpart 1. **Applicability.** A county or other local unit of government may petition for a contested case hearing by satisfying the requirements of Minnesota Statutes, section 110B.25, subdivisions 2 and 3, and this part.

Subp. 2. **Petition for hearing.** A petition for a hearing shall be made in writing and addressed to the state board. The petition shall contain:

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## PROPOSED RULES

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A. the name of the local unit of government petitioning and the names, addresses, and phone numbers of the officers of the local unit or other person representing the local unit for the purposes of the petition;

B. a request for a hearing;

C. a statement of the allegations or issues to be determined by the hearing; and

D. proof of service of a copy of the petition on all other involved local units of government.

Subp. 3. **Filing of petition.** A petition is considered filed with the state board when it is received by the board. Upon receipt of the petition, the board shall acknowledge its receipt in writing.

Subp. 4. **Request for judge.** Within five days of receipt of a sufficient petition for a hearing, the state board shall file a request under part 1400.5300 for the assignment of an administrative law judge.

Subp. 5. **Hearings.** Hearings are governed by the contested case procedure of Minnesota Statutes, chapter 14 and by parts 1400.5100 to 1400.8400.

Subp. 6. **Hearing fees.** For the purpose of apportioning the fees of the Office of Administrative Hearings and transcript fees, the state board shall not be considered a party to the proceeding.

## ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

## Department of Energy and Economic Development

### Adopted Permanent Rules Relating to the Governor's Rural Development Council, Rural Development Grants

The rules proposed and published at *State Register*, Volume 11, Number 9, pages 375-383, September 1, 1986 (11 S.R. 375) are adopted as proposed.

## Department of Human Services

### Adopted Permanent Rules Relating to Nursing Home Payment Rate Determination

The rules proposed and published at the *State Register*, Volume 11, Number 10, pages 426-428, September 8, 1986 (11 S.R. 426) are adopted as proposed.

## Department of Labor and Industry Occupational Safety and Health Division

### Adopted Revisions to the Occupational Safety and Health Standards

Pursuant to Minn. Stat. § 182.655 (1984) notice was duly published in the *State Register*, Volume 11, Number 12, dated September 22, 1986 (11 S.R. 484) specifying the modification of certain Occupational Safety and Health Standards. Those modifications include the revisions to Occupational Exposure to Cotton Dust (1910.1043) and approval of information collection requirements of that standard; technical amendments and corrections to Occupational Exposure to Ethylene Oxide (1910.1047); revised Subpart K of 29 CFR Part 1926 governing Electrical Standards for Construction; and the final rules governing Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite (1910.1001 and 1926.58) including the Federal OSHA administrative stay applicable to non-asbestiform tremolite, anthophyllite and actinolite effective until April 21, 1987.

No objections, comments or written requests for public hearing have been received; therefore, these Occupational Safety and Health Standards are adopted and are identical to the standards proposed on September 22, 1986 (11 S.R. 484).

Steve Keefe, Commissioner  
Department of Labor and Industry

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## OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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## Metropolitan Council of the Twin Cities Area

### Public Hearing on Amendments to the Water Resources Management Development Guide, Part 1, Sewage Treatment and Handling

The Metropolitan Council will hold a public hearing Tuesday, Dec. 9, 1986, 11 a.m., at the Metropolitan Council Chambers, 300 Metro Square Bldg., 7th and Robert Sts., St. Paul, Minn. 55101, on proposed amendments to the *Water Resources Management Development Guide, Part 1, Sewage Treatment and Handling*. The amendments are being proposed in order to include projects to expand or improve the metropolitan sewer system.

All interested persons are encouraged to attend the hearing and offer comments. People may register to speak in advance by calling Jane Larson at 291-6500. Copies of the draft plan are available for public inspection beginning Nov. 11, at designated libraries throughout the region. For information on the location of these libraries or a free copy of the draft plan, call 291-6464.

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# STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

## Department of Administration: Procurement Division

### Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Safety Shoes	November 7, 1986	Minnesota Correctional Facility	St. Cloud	78-830-08415
Purchase Snow Making Machines	November 10, 1986	Various	Various	43-000-07601
Addendum #1—Computer Room Environmental Control Unit	November 10, 1986	Dept. of Revenue	St. Paul	67-120-02446
Directional Beacon at Mora	November 12, 1986	Transportation—Aeronautics	Mora	79-000-71743
Yard Tractor Loader	November 12, 1986	Transportation	Various	78-382-01132
Reading Tapes	November 12, 1986	Arrowhead C.C.	Virginia	27-158-49529
Straight Axle Assemble—Rebid	November 12, 1986	Transportation—Central Shop	St. Paul	79-990-00031
Wallboard Bldg. Paper Thermal etc.	November 12, 1986	Willmar R.T.C.	Willmar	55-106-06415
Lateral Files Rebid	November 12, 1986	Minnesota Correctional Facility	Shakopee	02-310-14631
Gasoline & Diesel Fuel Rebid	November 12, 1986	Various	Various	Sch. 92-TW
Computer Software	November 13, 1986	Corrections	St. Paul	78-000-17046
Liquid Calcium Chloride	November 13, 1986	Transportation	Rochester	79-600-03658
Comprehensive General Liability Insurance for Giants Ridge Recreational Area, Biwabik, Mn.	November 13, 1986	Iron Range Resources	Giants Ridge, Biwabik, MN	43-000-07471
Laboratory Sterilizer	November 13, 1986	Mankato St. University	Mankato	26-071-17078
Prescription Glasses	November 13, 1986	Various	Various	Various Various
Asbestos Removal Equip. & Supplies	November 13, 1986	Regional Treatment Center	Various	55-101-07141 etc.
Power Distribution Unit	November 13, 1986	Revenue	St. Paul	67-120-02444
Lease on Floor Equip.	November 14, 1986	Mankato St. University	Mankato	26-071-17040
Carpeting & Vinyl Flooring & Installation	November 17, 1986	St. Peter R.T.C.	St. Peter	02-310-15105 & 15106

<u>Commodity for Bid</u>	<u>Bid Closing Date at 2 pm</u>	<u>Department or Division</u>	<u>Delivery Point</u>	<u>Requisition #</u>
Green Hardwood Chips	November 17, 1986	Natural Resources— Regional Headquarters	Brainerd	29-003-02027
Material to construct a Polyethylene covered greenhouse	November 17, 1986	Minnesota Correctional Facility	Stillwater	78-620-00086
Toshiba Printer	November 17, 1986	Office State Auditor	St. Paul	61-000-37474

**Department of Commerce**

**Request for Proposals for the Development and Implementation of a Program to Assist Minorities Gain Access to Careers in Real Estate and Related Industries**

The Minnesota Department of Commerce is interested in contracting with an individual or firm to assist the department in the development and implementation of a program to assist minorities gain access to careers in real estate and related industries. Specific tasks to be accomplished by the contractor include:

Conducting a random sample survey to determine the general attitudes of consumers (buyers and sellers of real estate) who use the services of real estate or property management firms. Such information to be used by the department for training, public education and setting licensing policy.

Assist in the formation of a task force to study and make specific recommendations to the department and the legislature on how the state might become involved in assisting minorities pursuing careers in real estate and related occupations.

Attend meetings with industry representatives and state officials on survey findings and be available to provide expert testimony to the Department of Commerce and the State Legislature.

The contracting party should have survey research experiences as well as experience working with the minority groups in the state of Minnesota. In addition, the contractor should be knowledgeable of the legislative process and laws affecting the real estate industry.

The contract project will be directed by the Commissioner of Commerce and a staff committee.

Proposal should include an hourly charge for services, estimate of the number of hours the project will take and references addressing previous experience relevant to the project.

The request for proposals does not obligate the state to complete the project and state reserves the right to cancel solicitation of proposals if it is determined to be in the best interest of the state to do so.

It is estimated that the cost of this activity need not exceed \$10,000 and the work should commence on or about November 20, 1986 and that the project should be complete by February 20, 1987.

Interested parties should contact Tammy Wetterling and proposal should be submitted no later than November 18, 1986 to:

Michael Hatch, Commissioner  
 Minnesota Department of Commerce  
 500 Metro Square Building  
 St. Paul, Minnesota 55101

**Iron Range Resources and Rehabilitation Board**

**Request for Proposals for a Consultant to Assist in Business Development**

The Iron Range Resources and Rehabilitation Board requests proposals from qualified consultants to assist in the identification and attraction of bonafide candidates for industrial and commercial development within the Taconite Tax Relief Area of northeastern Minnesota; more specifically, the consultant shall concentrate its efforts for the benefit of those areas of the Taconite Tax Relief Area which have been most severely impacted by a singular dependence upon the taconite industry; namely those areas of St. Louis and Lake Counties including and surrounding the cities of Babbitt and Silver Bay, respectively.

To this aim, the consultant shall identify two specific individuals or groups whose task will be to work directly and singularly with each of the above counties/cities to attract potential business leads for these areas.

The IRRRB requests that respondents address the following general areas of consideration, explaining in detail their proposed

## STATE CONTRACTS

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plans to accomplish stated objectives in each field. Respondents should estimate what percentage of the total time and total cost allotted will be devoted to each area of consideration, correspondingly breaking down each general area of consideration into specific tasks and detailing the respective time and money needed to accomplish each specific task.

General areas of consideration:

1. Identification and contact of qualified candidates for industrial and commercial development within northeastern Minnesota, focusing upon the aforementioned counties/cities of most severe economic distress.

a. From the noted target sectors or other sectors which the consultant, IRRRB and the affected areas mutually ascertain as viable options for northeastern Minnesota.

b. While IRRRB suggests that this candidate search be limited to the upper Midwest, Minnesota, or even the Twin Cities metro area; the consultant should propose a specific geographic search area, justifying same.

2. Assistance to the aforementioned counties/cities or IRRRB Staff in researching and developing proposals necessary to attract and secure such industrial and commercial development.

3. Formulation of strategies, detailing specific objectives, for same.

4. Coordination of preliminary negotiations with qualified business development candidates.

5. Progress reports covering all of the above.

### Statutory Proposal Requirements

In accordance with the provisions of Minnesota Statute § 363.073, for state contracts in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have a certificate of compliance issued by the Commissioner of Human Rights before a proposal may be accepted. **The proposal will not be accepted unless it includes one of the following:**

A. A copy of the firm's current certificate issued by the Commissioner of Human Rights.

B. A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights.

C. A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

Any questions concerning a Certificate of Compliance may be referred to the Contract Compliance Unit of the Minnesota Department of Human Rights at (612) 296-5663.

The total cost of the contract for all services and for all costs, both direct and indirect, shall not exceed \$75,000.00.

For further information and formal RFP documents, contact Iron Range Resources and Rehabilitation Board, P.O. Box 441, Eveleth, MN 55734, 218-744-2993.

The deadline for receipt of proposals is 4:30 P.M., Tuesday, December 2, 1986.

## Iron Range Resources and Rehabilitation Board

### Request for Proposals for a Public Relations Consultant to Assist in the Establishment of an Olympic-Caliber Training Facility at the Giants Ridge Recreational Area

The Iron Range Resources and Rehabilitation Board requests proposals from public relations consultants to assist in planning, general counseling, media relations, presentation preparation, and marketing related to establishing an Olympic-caliber training complex at the Giants Ridge Recreational Area. Giants Ridge is an alpine/nordic skiing and training facility located on the Mesabi Iron Range, within the Town of White, near Biwabik, Minnesota.

The consultant selected shall provide professional services in the aforementioned areas which support agency efforts in this regard. Such efforts shall be concentrated within an approximated timeframe of December 15, 1986-March 15, 1987.

The IRRRB requests that respondents address the following general areas of consideration, explaining in detail their proposed plans to accomplish stated objectives in each field. Respondents should estimate what percentage of the total time and total cost allotted will be devoted to each area of consideration, correspondingly breaking down each general area of consideration into specific tasks and detailing the respective time and money needed to accomplish each specific task.

General areas of consideration:

1. General counsel and planning leading to presentation of a Giants Ridge training facility proposal to the United States Olympic Committee or individual national sports federations or associations.

2. Production of a written bid document to be used in planned presentations.
3. Production of a multi-projector slide show or video presentation in support of same, including research, writing, editing, design, artwork, typesetting, camera-ready copywork, and administration. (All presentation costs, both direct and indirect, should be included.)

The total cost of this contract for all services and for all costs, both direct and indirect, shall not exceed \$45,000.00.

For further information and formal RFP documents, contact the Iron Range Resources and Rehabilitation Board, P.O. Box 441, Eveleth, MN 55734, 218-744-2993.

The deadline for receipt of proposals is 4:30 P.M., Tuesday, December 2, 1986.

## **State Designer Selection Board**

### **Request for Proposal for a Project at Giants Ridge Recreation Complex, Biwabik, Minnesota**

#### **To Registered Professionals in Minnesota:**

The State Designer Selection Board has been requested to select designer for a project at Giants Ridge Recreation Complex, Biwabik, Minnesota. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., December 3, 1986, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

#### **The proposal must conform to the following:**

1. Six copies of the proposal will be required.
2. All data must be on 8½" x 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

#### **4. Mandatory Proposal contents in sequence:**

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firms(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall list and total all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

#### **5. Statutory Proposal Requirements:**

In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. The proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or

## STATE CONTRACTS

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b) A statement certifying that firm has a current certificate of compliance issued by the Commissioner of Human Rights;  
or

c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or

c) A statement certifying that the firm has an application pending for a certificate of compliance.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded;  
or

b) Enclose a self-addressed stamped mailing envelope with the proposals. When the board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

### 7) PROJECT—9-86

Water and Sewer System  
Giants Ridge Recreation Complex  
Biwabik, Minnesota

Iron Range Resources and Rehabilitation/Giants Ridge Recreation Area is seeking the services of a design engineering consultant for the following project at Giants Ridge Recreation Area in Biwabik, Minnesota. The project would be divided into two (2) phases:

**Phase I:** A preliminary engineer report/study to provide a long term solution to provide water and sewer service to Giants Ridge Recreation Area.

**Scope of Service:** This report would determine the most cost effective method of providing water and sewer service, show proposed alignments for sewer and water lines, effects on public/private lands, easements or acquisitions that may be necessary environmental concerns and preliminary cost estimates for construction. The preliminary study may also include work on obtaining necessary permits and assist I.R.R.R.B. in seeking out additional funding sources for this project. The approximate cost of Phase I is \$25,000.00.

**Phase II—Scope of Service:** If the preliminary report/study should indicate, and the necessary funds permit, this phase would include design work in preparation for construction of a necessary water and sewer facility for the Giants Ridge Recreation Area. This would include all design drawings, construction drawings assisting in advertising and calling for bids for construction and all necessary engineering service from design through actual completed construction.

Richard F. Whiteman, Chairman  
State Designer Selection Board

## NON-STATE PUBLIC CONTRACTS

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The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

## Metropolitan Council of the Twin Cities Area

### Invitation for Sealed Bids for Laser Page Printer Replacement

The Metropolitan Council is requesting sealed bids for replacement of Xerox 8700 Laser Page Printer System. The equipment must have the capability to replace an existing system used to produce data processing output and electronic printing output and must have a minimum capacity of 50 pages per minute.

Specifications for this laser printer equipment may be obtained by contacting Roy Larson, Information Systems Manager, at 291-6480. Specifications will be available October 29, 1986.

Sealed bids for this laser printer equipment will be accepted by the Metropolitan Council until 11:30 a.m. C.D.T., on the 11th of November, 1986. The Purchasing Officer will publicly open the sealed bids in the Office of the Metropolitan Council at 1:30 p.m. C.D.T. on the 11th of November, 1986.

All sealed bids will be addressed to:

Metropolitan Council  
300 Metro Square Building  
St. Paul, Minnesota 55101  
ATTN: Purchasing Officer

All sealed bids shall be marked "Laser Printer System—To be opened at 1:30 p.m., November 11, 1986."

Sandra Gardebring, Chair  
Metropolitan Council

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## STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

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## Department of Energy and Economic Development Governor's Rural Development Council

### Rural Development Grants Available

The Governor's Rural Development Council is seeking applications from non-profit organizations, public institutions and agencies, units of government and special districts in the state for its Seed Grant program. The council's Seed Grant program will provide funds for new and innovative projects that benefit farmers, farm family members, or low-income rural residents. Projects must also address one or more of the council's goals in family farm and agricultural land protection; value-added processing and marketing for agricultural and forest products; or assistance to rural small businesses.

The seed grants are being made available to help local projects and programs leverage other public and private funds. Each grant is limited to no more than \$10,000 and a total of \$75,000 is available for all projects. The deadline for making application for the Seed Grant program is December 12, 1986. To receive a copy of the grant program guidelines and application form, contact:

Governor's Rural Development Council  
900 American Center Building  
150 East Kellogg Blvd.  
St. Paul, MN 55101  
612-296-3993

Notice of adopted permanent rules relating to the Governor's Rural Development Council, Rural Development Grants will be published in this issue of the *State Register*, the rules will become effective five (5) days after publication.

# SUPREME COURT DECISIONS

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Decisions Filed Friday 31 October 1986

## Compiled by Wayne O. Tschimperle, Clerk

**C5-85-2023** State of Minnesota v. George Joseph Guminga. Court of Appeals.

Minn. Stat. § 340.941 (1984), providing vicarious criminal liability for employers whose employees violate state liquor laws, is unconstitutional as a violation of due process.

The certified question is answered in the affirmative. Yetka, J.

Dissenting, Kelley and Scott, JJ.

### ORDERS

**C0-86-271** In the Matter of the Application for the Discipline of Kent D. Marshall, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Amdahl, C.J.

**C9-86-303** In the Matter of the Application for the Discipline of Terrance J. Selb, an Attorney at Law of the State of Minnesota. Supreme Court.

Disbarred. Amdahl, C.J.

**C4-86-1715** In the Matter of the Application for the Discipline of Chester C. Graham, at Attorney at Law of the State of Minnesota. Supreme Court.

Publicly reprimanded. Amdahl, C.J.

## TAX COURT

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Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

### Order for Judgment Dated: October 28, 1986

#### DOCKET NO. 4501

**C.W.O., Inc., a Minnesota Corporation, Appellant, vs. Commissioner of Revenue, Appellee.**

The above-entitled matter came on for hearing before the Honorable Carl A. Jensen, Judge of the Minnesota Tax Court, on June 25, 1986 at the Chippewa County Courthouse, Montevideo, Minnesota.

The case, with the agreement of the parties, was transferred to Chief Judge Earl B. Gustafson and a second day of trial was held at the courthouse of the Tax Court in St. Paul, Minnesota, on July 8, 1986.

John P. Sellner, Attorney at Law, appeared for appellant.

Thomas K. Overton, Special Assistant Attorney General, appeared for appellee.

Post-trial briefs were filed and the case was submitted to the Court for decision on October 5, 1986.

The Court, having heard and considered the evidence adduced at the hearing and upon all of the files and records herein, now makes the following:

#### FINDINGS OF FACT

1. Prior to 1984, C. W. Olson, Inc. was engaged in the manufacture of architectural, ornamental and miscellaneous metals for construction projects, with facilities in Minneapolis, Minnesota and Garfield, Minnesota.

2. In 1984, C. W. Olson, Inc.'s financial condition began to deteriorate due to several large unprofitable contracts.

3. By 1985, C. W. Olson, Inc. had used up its line of credit, had unsuccessfully sought other investors or buyers for the business, had a negative net worth, and was facing certain liquidation.

4. Through the good offices of the Montevideo Industrial Development Corporation, negotiations for a sale of all assets were undertaken with several Montevideo investors.
5. A new corporation, C.W.O., Inc., consisting principally of stockholders from the Montevideo, Minnesota area was incorporated for the purpose of purchasing the assets of C. W. Olson, Inc.
6. On May 14, 1985, appellant, C.W.O., Inc., entered into an agreement to purchase the manufacturing equipment, raw materials, work in progress, orders on hand and accounts receivable. Appellant also assumed the accounts payable.
7. On June 17, 1985, C. W. Olson closed its manufacturing operations in Minneapolis and Garfield and terminated its employees. The sale to appellant was completed on the same date.
8. After the purchase was completed, appellant filed its application with the City of Montevideo for enterprise zone credits.
9. On June 24, 1985, the Montevideo City Council held its hearing and approved enterprise zone credits for appellant.
10. As required by statute, the City Council made certain findings including a finding that, "Enterprise zone tax credits by C.W.O., Inc., will not have the effect of transferring existing employment from one or more municipalities within the state."
11. On or before July 9, 1968, the City of Montevideo submitted appellant's application to the Department of Energy and Economic Development for state approval.
12. It was subsequently determined that the Commissioner of Revenue, not the Commissioner of Energy and Economic Development, would have to approve or disapprove the application.
13. The application was transmitted to the Commissioner of Revenue in late July, 1985.
14. On December 17, 1985, the Commissioner of Revenue disapproved the application on the grounds that the project involved a "transfer of employment."
15. Employment at C. W. Olson, Inc.'s manufacturing facilities in Minneapolis and Garfield ceased in 1985 and would have ceased whether enterprise zone credits were granted to appellant or not.
16. The improvement of facilities in Montevideo, Minnesota did not have the effect of transferring existing employment from one municipality within the state to another because no employment would have existed after 1985 in Minneapolis or Garfield under any circumstances.

#### **CONCLUSIONS OF LAW**

1. The appellee failed to take action on appellant's application for enterprise zone credits within 60 days after receipt of the application approved by the City of Montevideo.
2. The improvements made in Montevideo by appellant did not cause the transfer of existing employment from one or more other municipalities within the state to the City of Montevideo.
3. Appellant's application for enterprise zone tax credits should be approved by the Commissioner of Revenue.

LET JUDGEMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

BY THE COURT,  
Earl B. Gustafson, Chief Judge  
Minnesota Tax Court

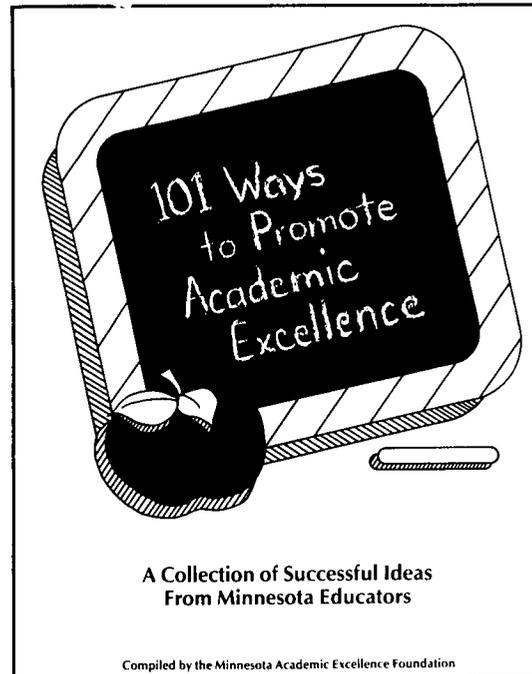
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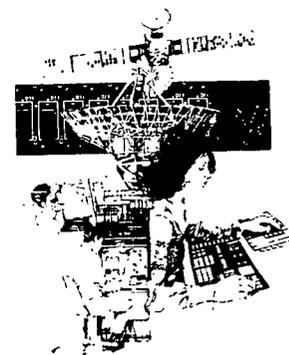
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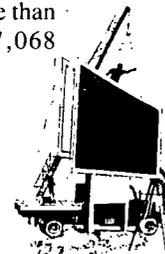
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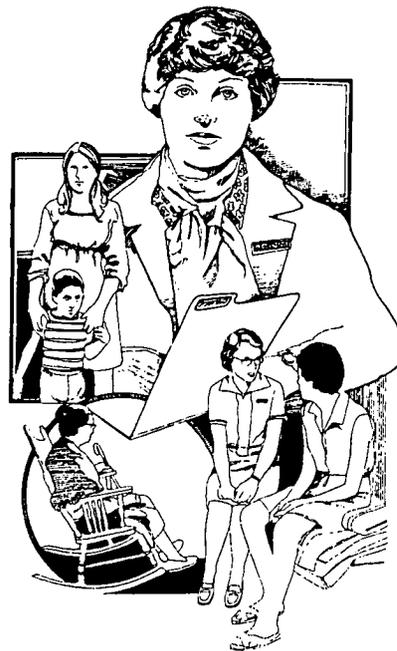
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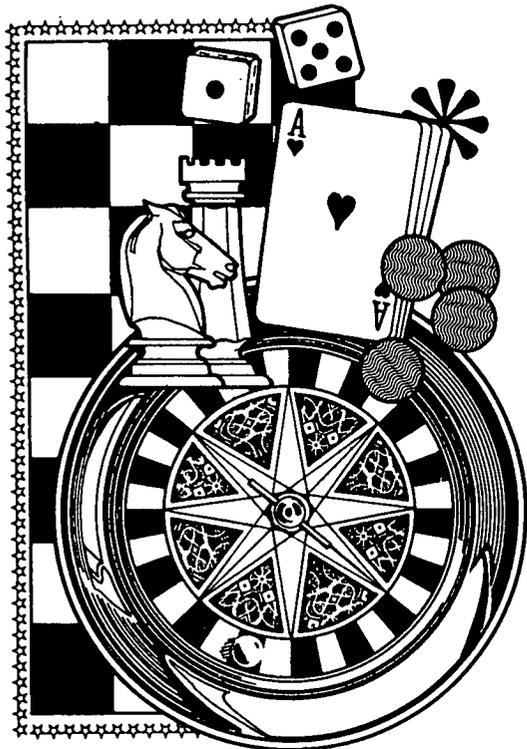
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